

**Regulations for
Yuba Feather Flood Protection Program of the
Safe Drinking Water, Clean Water, Watershed Protection
and Flood Protection Act**

INITIAL STATEMENT OF REASONS

BASIC PURPOSE OF THE REGULATION

The proposed amendments will establish a procedure to fund implementation of flood control projects under Proposition 13 (Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act). In the material that follows, this will be referred to as “the Basic Purpose.” Other purposes will be identified as each section is covered.

NECESSITY

Proposition 13, the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (“the Bond Law”), passed by the voters on March 7, 2000, is a general obligation bond law. The Bond Law authorizes the issuance of \$1,970 million in general obligation bonds, the proceeds of which are to be placed in a fund created by the Bond Law. The Bond Law establishes the Yuba Feather Flood Protection Program (“the Program”), establishes and transfers \$90 million into the Yuba Feather Flood Protection Subaccount for purposes of implementing the Bond Law, and requires the Department of Water Resources (“DWR”) or The Reclamation Board (“the Board”) to use \$70 million of that amount to fund local implementation of flood protection projects along the Yuba and Feather Rivers, Colusa Basin Drain, and their tributaries. The Program responds to an ongoing and urgent public need for better flood protection along those watercourses.

The Bond Law requires DWR or the Board to approve proposed projects, monitor their compliance with the Bond Law’s requirements, prioritize them according to criteria in the Bond Law, and fund them from the Yuba Feather Flood Protection Subaccount upon appropriation by the Legislature. The Bond Law specifically authorizes DWR and the Board to adopt regulations to implement the Program. DWR is working closely with the Board and has taken the lead role by mutual consent in establishing regulations for the Program.

Flood control projects such as those described in the Bond Law are complex. Successful projects are those that have had careful preparation, including studies of their feasibility from physical, environmental, economic, and social standpoints. Feasibility studies are the first phase in development of the projects. Regulations for funding feasibility studies were adopted by DWR and became effective on March 6, 2001. The second phase is to take the information from the feasibility study and prepare a set of design documents that would lead into project implementation. Regulations for funding designs were adopted by DWR and became effective on February 25, 2003. The third and final phase would be to implement the project.

Necessity for Basic Purpose. The proposed amendments would provide funding for the implementation phase. Funding the implementation phase will complete the project development process and accomplish the purpose of the underlying legislation “to fund one or more ... flood protection projects to be implemented by a local public entity ... ”.

The reasons for the proposed amendments are set forth in detail below.

Title 23, Division 2, Chapter 2.5.2

Throughout the text, references to the California Water Code have been edited to be consistent and to conform to the DWR-preferred format “Water Code Section nnnnn” and the section numbers have been edited to be complete free-standing references.

In the text there are occasional changes in spacing, capitalization, and punctuation. These are non-substantive changes not further discussed, except as described in the narrative below.

Section 499.1. Scope.

Subsection (a) is amended to include the effective date of the underlying legislation. This provides a reason for the inception date added in Section 499.5(b). The subsection is further amended to include the words “and implementation of” in the second sentence after designs, and revised for correct list format. This is done to accomplish the Basic Purpose. The word “implemented” is changed to “performed” to eliminate confusion with the new implementation clauses.

Section 499.2. Definitions.

Former Subsections (e) and (f) are renumbered to Subsections (f) and (g), and former subsections (i) through (m) are renumbered (h) through (l) to accommodate one new definition in alphabetical order and deletion of two definitions. All references below and elsewhere in this narrative are to the new subsection numbers unless otherwise stated.

Subsection (a) is amended to eliminate redundant reference to “geographic” area, since the term “area of consideration” is defined in detail in Section 499.3. Subsection (a) is also revised to emphasize that the entire funding process is subject to “these regulations” as well as the Bond Law.

The definition for “CPM diagram” is inserted as new Subsection (e) to define and provide a succinct way to refer to a Critical Path Method diagram.

Subsections (g), “Eligible study cost” and (h), “Eligible design cost” are deleted. The definition of the corresponding “Eligible implementation cost” required descriptive material too long for a definition. For consistency, the two companion definitions were converted to descriptions and moved to Subsections 499.5(e) and 499.5(f).

Subsection (j) is amended by deleting the redundant word “geographic”.

Subsection (k) is amended to include the words “or implementation” and revised for correct list format. This is done to accomplish the Basic Purpose.

Subsection (m) is added to define the term “unit”, used in this specific sense in amendments to Section 499.1, 499.4.1.1, and 499.4.2. The definition is needed to differentiate this particular portion of a project from an “element”, an “alternative”, a “feature”, or an “item”, terms used in a self-explanatory way elsewhere in this Chapter.

Section 499.3. Area of Consideration.

The word “geographic” in the title and the first paragraph is deleted to eliminate redundancy.

This section is amended to include the phrase “or implementation” and revised for correct list format to accomplish the Basic Purpose.

References to Colusa and Glenn Counties are eliminated in Subsection (b) to conform to the terminology of the underlying statute.

Section 499.4. Feasibility Studies.

Subsection (a) is amended to emphasize that the entire funding process is subject to “these regulations” as well as the Bond Law.

Subsection (b)(6) is amended to refer to a “schedule” instead of a “timetable” and to require a bar graph format. This is necessary because some initial submittals under this regulation lacked satisfactory information content.

Subsection (b)(8) is amended in two places to refer to “recipients” rather than incorrectly to “applicants.” This change puts the subsection in proper chronological order. “Will” in the first sentence is changed to “would” for more precise use of English. Subsection (b)(8) is also amended to delete the requirement that recipients comply with the National Environmental Policy Act, since that Act applies only to federal agencies.

Subsection (b)(10) is amended to clarify that the relationship of the proposed project to local land use or general plans should be one of consistency.

Subsection (b)(11) is amended to clarify that the intention is to require information about the funding of project implementation, rather than about the funding of the feasibility study as formerly implied.

In Subsection (d) the word “fund” is amended to read “reimburse”, providing a more precise term.

Subsections (e) and (f) are amended to refer to “recipient” rather than incorrectly to “applicant”.

Subsection (g) is amended to clarify that receipt of a grant for the feasibility study stage of a project does not assure funding for either later stage, design or implementation. It is necessary so that DWR may retain the option of terminating

unacceptable projects.

Section 499.4.1. Designs.

Former Subsection (b)(3) is renumbered to Subsection (b)(4) to accommodate insertion of new Subsection (b)(3) in logical order. All references below and elsewhere in this narrative are to the new subsection numbers unless otherwise stated.

Subsection (a) is amended to emphasize that the entire funding process is subject to “these regulations” as well as the Bond Law. The section is also amended to require that the underlying feasibility study must be one the Department accepts. Further amendment allows the recipient to design a feasibility study by parts, provided that the design must conform to the feasibility study results and subsequent Department-accepted changes. The changes are necessary to ensure a high-quality design based on acceptable preliminary work, in the event that a feasibility study is offered that was not funded by a grant from this program, or in the event that the recipient wishes to proceed with design of part of the subject of the feasibility study.

Subsection (b)(1)(B) is amended to require certification of specifications by a California registered engineer. It is necessary to provide assurance of the quality and legality of the specifications and to be consistent with the corresponding requirements of the drawings and cost estimate.

In Subsection (b)(2) the word “program” is amended to “programs” to correct an error in the adopted regulations.

Subsection (b)(2)(C) is amended to be more concise and to be consistent with the wording of Subsection (b)(1)(C).

New Subsection (b)(3) requires mitigation work and enhancement work funded by the portion of Program funding administered by the Department of Fish and Game to be identified and estimated separately from other items of work and from each other, and for evidence to be given that property acquired solely for such work could be acquired from willing sellers. The work separation provisions are necessary for proper identification of funding source, since the Program funds are in two parts separately administered by DWR and the Department of Fish and Game. The willing seller provision is required in the underlying legislation, and the mechanism for conforming is regulated here.

Subsection (b)(4) is amended to use the new definition of “CPM diagram” and to eliminate the redundant requirement to show all tasks and times.

Subsection (d) is amended to use the term “recipient” instead of “local public entity” to be consistent with Section 499.4.

In Subsection (f) the word “fund” is amended to read “reimburse”, providing a more precise term.

Water Code Section 79068.14, establishing the Department of Fish and Game funding and requiring willing sellers of property for property acquired using that funding,

is added to the list of references, and the list is revised for correct list format.

Section 499.4.1.1. Early Allocation of Implementation Funds.

This is a new section, added to provide a method of reserving funds for projects that are expected to receive grant funds as a continuation of the efforts of current or previous grantees. The section is necessary to ensure that projects initiated by previous grants are carried through to completion.

Subsection (a) provides DWR with the ability to reserve funds only for those projects that are likely to materialize.

Subsection (a)(1) provides a precise definition of the project proposed for early allocation. It is needed to assure that pre-allocated funds are directed to the projects that qualified for them.

Subsections (a)(2) and (a)(3) establish design progress as the primary criterion that qualifies a project for early allocation.

Subsection (b) differentiates early allocation from actual reimbursement. It is required to clarify that early allocation is merely a set-aside of funds, and that actual funding will be under the contractual conditions provided for all implementation projects.

Section 499.4.1.2. Advance Preparation for Right of Way Acquisition.

This new section provides that design grantees may prepare to acquire real property rights using design grant funds. This is necessary to shorten the time required for property acquisition, so that the process will not adversely affect project implementation progress. Knowledge of the conditions of property acquisition is also required as input to the design process.

Subsections (a) and (b) prohibit use of design grant funds to purchase actual property rights. This is required to avoid expending design grant funds for an activity which is clearly implementation.

Subsection (c) requires the recipient to include property acquisition work as a design activity. This is necessary to properly account for expenditure of grant funds.

Section 499.4.2. Implementation.

This new section is added to describe how DWR will administer a grant program to fund project implementation under the Bond Law. The entire section is needed to accomplish the Basic Purpose.

Subsection (a) establishes the use of Program funds for implementation and requires that the information contained in a DWR-accepted design or designs is the basis of implementation. The subsection and its subsections are necessary to provide a sound basis for projects proposed for implementation.

Subsection (a)(1) allows the recipient to implement a portion of a design. This

provision is needed to provide for expediting portions of the project that are appropriate for early implementation.

Subsection (a)(2) requires a statement providing certain information that links the design to the implementation unit and describes the status of its financial feasibility. It is also needed to provide a basis for the Department to evaluate a request for implementing part of the project.

Subsection (a)(2)(A) requires a description of the unit to be implemented. The description is necessary so that DWR may relate the unit to its design.

Subsections (a)(2)(B) through (D) require the recipient to confirm that a financially feasible project can be obtained if the proposed unit is implemented, to demonstrate its plan for implementing a financially feasible project, and to state its intention to implement a financially feasible project. This assurance is required as a basis for the Department to waive financial feasibility of an individual unit, as provided in Section 499.4.2(a)(3).

Subsection (a)(3) allows the recipient to implement economically feasible portions of a design and allows the Department to waive the requirement of financial feasibility for individual units. This is necessary to allow portions of projects that may be infeasible to proceed when overall feasibility is ultimately assured.

Subsection (a)(4) lists the products of design to which a constructed project or project feature must conform, subject to accepted changes. It is required to assure that the implemented project is consistent with the design.

Subsection (a)(5) is a similar requirement for non-constructed projects or project features. It is also needed to assure that the implemented project is consistent with the design.

Subsection (a)(6) describes how the project will be funded, how the design cost estimate will be used, and how funding will be adjusted for differences in bid prices and for changes. The subsection also limits funding to available funds. The subsection is necessary to clarify the mechanism for adjusting quantities to conform to the realities of construction, and to establish estimated or bid prices as the basis for cost calculations. Limitations in total funding are necessary to avoid granting funds in excess of available amounts.

Subsection (b) requires a viable, legal project conforming to the design and changes. Principal applicable laws and regulatory agencies are listed. The subsection is needed to complete the listing of conditions to which the recipient must comply.

Subsection (c) establishes the design CPM diagram as the project schedule, subject to starting time definition and accepted changes. It is required in order to control the implementation process and avoid excessive implementation delays and delay-induced cost increases.

Subsection (d) requires the implementing party to obtain permits before starting work, to assure that the proposed work will conform to permitting agencies'

requirements.

Subsection (e) allows recipients to implement projects with, or funded in part by, other agencies, and allows the work to be performed by a qualified contractor. This is necessary to give recipients the opportunity to use available local, state and federal resources, and potentially conserves Program funds that may then be granted for additional projects.

Subsection (f) defines how much of an implementation may be reimbursed by a grant. It conforms to the underlying legislation requiring at least a 30 percent local cost share, except for enhancements funded by Fish and Game.

Section 499.5. Costs Eligible for Grant Funding or Credit.

The title of the section is changed to recognize that eligible costs are the section's basic subject, and to allow credit for certain advance work.

Former Subsections (a) through (e) are renumbered (c), (e), (f), (h), and (i) to accommodate new Subsections (a), (b), (d), and (g). All references below are to the new subsection numbers.

New Section (a) is added to clarify that all reimbursable costs must be documented in advance, with exceptions for costs of preparing approved applications. It is necessary to provide a basis for rejecting claims for reimbursement for work that was neither anticipated nor pre-approved.

New Subsection (b) is added to prohibit payments for work performed before the enabling legislation was approved. It is required to prevent payment for work done before a legal basis was provided.

New Subsection (d) is added to emphasize that most State funding is limited to 70 percent, to clarify that the recipient must pay the remainder, and to identify those costs that may be 100 percent State-funded. The section is required because the underlying statute, though definitive, refers obliquely to Water Code sections and needs clarification.

Subsection (e) is amended to present the fundable study cost items in numbered list form, and to mention reimbursement of application costs last. There is no material change to the items to be funded. The changes are necessary to make this subsection parallel to new Subsection (g), which applies more complex requirements. The revisions also are needed to de-emphasize application cost reimbursement, a relatively minor cost. The word "only" is inserted to correct an omission in the adopted regulations and to achieve parallelism with Subsections (f) and (g).

Subsection (f) is amended to present the fundable design cost items in numbered list form, and to mention reimbursement of application costs last. There is no material change to the items to be funded. The changes are necessary to make this subsection parallel to new Subsection (g), which applies more complex requirements. The revisions also are needed to de-emphasize application cost reimbursement, a relatively minor cost.

In Subsection (f)(1), “approved” is changed to “accepted” to be consistent with the revised wording in Sections 499.4.1(a) and 499.6.1(a)(2).

New Subsection (g) is added to identify eligible implementation costs. It accomplishes the Basic Purpose and is necessary to clearly explain the activities that will be funded. Provisions for acquiring property from willing sellers are necessary to conform to the underlying legislation, Water Code Section 79068.14(b).

Section (h) is amended to accomplish the Basic Purpose, to achieve correct application of the word “only,” to convert short references to sections of these regulations to full references, to make the section references correspond to the new subsection numbering, and to emphasize that the funding process is subject to “these regulations” as well as to the Bond Law. The word “only” previously referred erroneously to “activities” when the intention was to refer to the clause beginning with “if.” DWR is converting short subsection references to full references where applicable, to minimize erroneous interpretation. The word “monies” is changed to “funds” for clearer and plainer text. “Applicant” is changed to the correct “recipient”.

Section (i) is amended to recognize that funding agreements are between the Department and multiple local agencies, not just Sutter County. The last sentence is amended to two sentences to clarify that “agreements” is the antecedent of “which”.

New Section (j) allows recipients credit for work appropriate for grant funding but performed before the grant date and after the enabling legislation was approved. This provision is needed to allow timely progress on projects while the granting process is pending.

Water Code Section 12585.5 is added as a reference citation, to provide the reference used in the underlying statute as the basis for the maximum State payment of 70 percent.

Section 499.6. Feasibility Study Application.

Subsection (a) is amended to reformat the requirement for an engineer’s signature. This will make the language consistent with other subsections requiring registered engineers’ services.

Subsection (d) is amended to refer to “schedule” instead of “timetable,” and to require a CPM diagram rather than a Gantt chart. Experience with previous feasibility study applications has demonstrated that a more detailed schedule is necessary. References to “schedule” and “calendar days” make the language consistent with the CPM diagram requirement.

In Subsection (f), the reference to “project(s)” is changed to “project”. The change is required because multiple projects are not contemplated as the subject of a single grant.

Section 499.6.1. Design Application.

The format of this section is rearranged to incorporate former Section 499.6.2, “Environmental Compliance.” The provisions of Section 499.6.2 apply only to designs. With new Section 499.6.3, “Implementation Application” added, Section 499.6.2 had the appearance of being misplaced, and it was necessary for clarity to incorporate it into this Section 499.6.1. The rearrangement was accomplished with no substantive change in the provisions, by converting former Section 499.6.1 to Section 499.6.1(a), renumbering former Subsections 499.6.1(a) through (j) to 499.6.1(a)(1) through (10), and inserting the three subsections 499.6.2(a) through (c), renumbering them 499.6.1(b) through (d). In the discussion below, the references are to the new section numbers.

Subsection (a)(2) is amended to clarify that an acceptable feasibility study must be accepted in writing by DWR.

Subsection (a)(2) and Subsection (a)(3) are amended to add “these regulations”. The change makes the subsection references more specific and differentiates the references to regulations from the frequently-made Water Code references.

The section reference in Subsection (a)(3) is updated to conform to the new numbering.

Subsection (a)(4) is amended to add a requirement for accounting separately for mitigation and enhancement work funded by the Department of Fish and Game. It is required to provide for tracking these activities to avoid inappropriate mingling of DWR and Fish and Game funding.

Subsection (a)(5) is amended to refer to “schedule” instead of “timetable”, and to require a CPM diagram rather than a Gantt chart. Experience with previous feasibility study applications has demonstrated that a more detailed schedule is necessary, and that requirement is carried forward to the design stage. References to “schedule” and “calendar days” make the language consistent with the CPM diagram requirement.

Subsection (c) and Subsection (d) are amended to provide complete section references conforming to the new numbering and to add “of these regulations.” The change will minimize the chance of erroneous interpretation and differentiate the citations from references to the Water Code.

New Subsection (e) requires environmental compliance activities associated with a feasibility study, but performed during design, to be reimbursed from feasibility study grant funds. The subsection is necessary to clarify that deferred environmental compliance activities that are permitted to take place in the design phase are not to be reimbursed from design grant funds.

Water Code Section 79068.14 is added as a reference citation, to correspond with the reference in Subsection (a)(4); the reference section is edited to provide proper list format.

Section 499.6.2. Environmental Compliance.

The section is repealed and the text moved to Subsections 499.6.1(b) through (d) without change except as noted above under Section 499.6.1.

Section 499.6.3. Implementation Application.

This new section describes the implementation application and requires that it be filed with DWR to apply for implementation grant funding. An application is necessary to allow DWR to determine an applicant's eligibility to apply and to assess the applicant's capability to implement a project. Section 499.6.3 and its subsections include a listing of the minimum information that is expected from an applicant for an implementation grant. The section allows applicants to omit items that have been submitted previously during design. This provision is required to avoid unnecessary duplicate submittal of voluminous or proprietary items.

Subsection (a) requires a description of the proposed project. It is needed as a basis for all ensuing descriptive material, and so that DWR can compare it to the accepted design and with the certified CEQA documents.

Subsection (b) requires the implementation to be based on a design, accepted by DWR in writing, that meets all the requirements for designs established by the Yuba Feather Program and provides a complete basis for implementation. This ensures that the implementation is ready to start without any further documentation.

Subsections (b)(1) and (b)(2) identify the specific documents from the design that are required as a basis for the implementation. This is necessary to differentiate these documents from other outputs of the design such as progress reports and billing records.

Subsection (b)(3) requires separation of mitigation and enhancement work funded by the Department of Fish and Game, and evidence that property rights required solely for these activities can be obtained from willing sellers. The provisions are required to avoid mingling of DWR and Fish and Game funding, and to advance the process of complying with the underlying statute's willing seller requirements.

Subsection (c) requires the project to comply with the California Environmental Quality Act by providing the required environmental documents.

Subsection (d) requires evidence of compliance with the California Endangered Species Act. The provision is necessary to assure that the project meets the requirements of that law.

Subsection (e) requires a task breakdown. A task breakdown is necessary to help DWR determine whether the applicant is capable of performing the implementation and to establish the magnitude of work required to complete it.

Subsection (f) requires a schedule for execution of the design. It is necessary to assess the implementation workflow and staffing requirements and to assist in evaluating the implementation cost estimates. Experience indicates that having this

information in a CPM diagram format makes it easier to follow and understand the schedule.

Subsection (g) requires an estimate of project management and supplementary costs. These are needed in addition to the implementation cost estimate provided with the design, to determine the amount of funding required, budget yearly expenses, request adequate appropriations from the Legislature, and monitor overall program cost. This information will also help DWR evaluate whether the implementation proposal is realistic.

Subsection (h) requires information about the financing of the implementation. The information is needed to determine the grant amount, the schedule for disbursement, and the effect of cost-sharing on project financing.

Subsection (i) requires citations of statutes, authorities, and procedural descriptions establishing the applicant's status as a contractor. These are necessary for DWR to determine if the applicant is qualified to apply for an implementation grant under this program as required by Water Code Section 79068.6 and whether and under what conditions the applicant is authorized to contract with the State.

Subsection (j) specifies submission of a resolution of the local agency's governing body. The resolution is needed to ensure that the governing body of the local public agency is aware and approves of the proposed implementation and that the person signing the application is authorized to do so.

Subsection (k) requires that the applicant provide additional information when DWR requests it. This provision is needed because additional information may be necessary to enable DWR to evaluate the applications effectively and to monitor the progress of the implementation.

Section 499.7. Application and Funding Process.

Former Subsections (f)(3) through (f)(5) are renumbered (f)(4) through (f)(6) to accommodate new Subsection (f)(3). All references below and elsewhere in this narrative are to the new subsection numbers unless otherwise stated.

Subsection (a) is amended to add the word "fiscal". This is needed to clarify that the time requirement refers to fiscal years throughout the subsection.

Subsection (b) is amended by adding "or implementation" in two places to accomplish the Basic Purpose.

Subsections (f)(1) and (f)(2) are amended by adding "and CPM diagram". Requiring CPM diagrams in the feasibility study and design contracts will help DWR to monitor contract progress and will define the results expected better than a workplan alone.

New Subsection (f)(3) provides that a task breakdown agreed to by DWR, a cost-sharing formula consistent with the underlying statute, the recipient's responsibility to prepare an operation and maintenance manual showing the recipient's commitment to

operate and maintain the project and any associated environmental mitigation and/or enhancement measures, the recipient's commitment to hold the State harmless from liability arising from the project, and other requirements if necessary, will be included in the implementation contract. The inclusion of these items as enforceable parts of the contract will ensure that all necessary work is done, the cost-sharing formula is agreed to by both parties, the project and any environmental mitigation and/or enhancement measures remain operable and maintained without further State expenditure, the State is not exposed to unwarranted liability, and the Department may impose new requirements that may be made necessary by project conditions.

Subsection (f)(5) is amended to add "or implementation" to accomplish the Basic Purpose, and the text is edited for correct list format.

Subsection (f)(6) is amended to add "of these regulations" to the section reference. The change is required to minimize misinterpretation. The section reference is updated to conform to the new numbering of Section 499.6.1.

Water Code Section 12585.5 is added as an authority citation to relate the cost-sharing provisions to the underlying statute.

Section 499.8. Recordkeeping.

Former Subsections (b) and (c) have been renumbered (d) and (e) to accommodate new Subsections (b) and (c).

Subsection (a) is simplified to relate feasibility study record retention only to feasibility study completion. New Subsection (b) similarly relates design record retention only to design completion. The two subsections were formerly combined by not specifying the type of grant. DWR has reconsidered the need to retain documentation of all phases of the project development until after the last phase, implementation, has been completed, and now feels that each phase will have a sufficient audit trail within itself.

Subsection (c), a similar requirement for implementations, is added to accomplish the Basic Purpose.

Subsection (d) is amended in two places to add "or implementation" and to provide proper list format. This is needed to accomplish the Basic Purpose.

MATERIALS RELIED UPON

DWR relied upon no written materials in developing these amendments.

REASONABLE ALTERNATIVES TO THE PROPOSED AMENDMENTS TO THE REGULATION AND THE AGENCY'S REASONS FOR SELECTING THE PREFERRED ALTERNATIVE

DWR considered no alternatives to implementing the Bond Law that did not provide grants for project implementation. An implementation grant program is explicitly required in the underlying statute.

DWR did consider the structural alternative of writing separate regulations for the implementation grant program, and further considered whether it was appropriate to include the regulations with those of the Board, which is included as a party in the underlying statute and has a staff that inspects construction of flood control projects. DWR conferred with Board management, and a consensus was reached that combined regulations for all phases of project development would be just as effective, clearer, and easier to administer. The remaining option of completely separate sections of DWR regulations for implementation was rejected when an attempt at the structure led to extensive duplication of existing regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

DWR has not identified any alternatives that would lessen any adverse impact on small business. If adopted, the regulations are not expected to result in an increased cost to the State as it is a grant program, and all costs come out of the Bond Law Subaccount. Five percent of the \$70 million in the Subaccount shall be used by the Department of Finance for administration and processing of the Bond program. Costs to DWR for administration of the Yuba Feather Flood Protection Program will be funded by Bond proceeds. There will be no monetary impact to the General Fund.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

DWR has determined that the proposed regulations may have an effect on small business. The Design Grant Program is voluntary and there may be a potential for benefit from the enforcement of the regulations to the extent that a grant recipient may hire a small business to conduct all or portions of the implementation. The express terms of the proposed action, written in plain English, are available from the agency official designated in the Notice of Proposed Rulemaking.